

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

vs.

GREGORY WILSON,

Defendant.

Case No.: 2:09-cr-0011-RLH-GWF

ORDER

DENYING APPEALABILITY

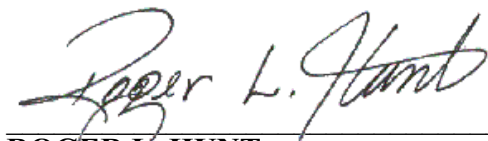
Following the court's denial of Defendant's Motion for Expert Witness and Evidentiary Hearing (#113, filed Sep. 30, 2013) and Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence by a Person in Federal Custody (#115, filed Sep. 30, 2013), Defendant Wilson filed a Motion for Certificate of Appealability. (#127, filed May 2, 2014). Wilson has not filed a Notice of Appeal.

This court will not enter a certificate of appealability because, as noted in the order of denial, Wilson's § 2255 petition was untimely and not subject to equitable tolling. Wilson failed to make "a non-frivolous showing that he had a severe mental impairment during the filing period that would entitle him to an evidentiary hearing." *Bills v. Clark*, 628 F.3d 1092, 1100-01 (9th Cir.

1 2010). The evidence showed that Wilson was not mentally impaired as he made cogent requests
2 for medical assistance and filed letters and motions with the court pursuing other legal remedies.
3 Accordingly, Wilson's request for an evidentiary hearing was frivolous, he was not entitled to an
4 evidentiary hearing or equitable tolling, and his § 2255 petition was untimely.

5 IT IS THEREFORE ORDERED that this court will not issue a certificate of
6 appealability in this matter.

7 Dated: May 8, 2014.

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10 **ROGER L. HUNT**
11 **United States District Judge**